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Dean H. Nakamura
DLA Piper Rudnick Gray Cary, US LLP
1625 Massachusetts Avenue, NW
Suite 300
Washington, D.C. 20036

In re Application of :
HELMMLING et al. :
U.S. App. No. 10/522,582 :
PCT No.: PCT/EP03/08542 :
Int. Filing Date: 01 August 2003 :
Priority Date: 01 August 2002 :
Attorney Docket No.: 2502491-991150 :
For: GHRELIN BINDING NUCLEIC ACIDS :

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to applicants' "Petition to Withdraw Notice of Abandonment" filed 24 October 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/EP03/08542 which claimed a priority date of 01 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 February 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 February 2005.

On 26 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States which included a copy of the international application.

On 01 August 2005 the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 24 October 2005, applicants filed a petition to withdraw the holding of abandonment under 37 CFR 1.181.

DISCUSSION

A review of the petition papers reveals that applicants have not paid the full basic national fee in accordance with 37 CFR 1.495(b)(2). The above-identified application was abandoned on 02 February 2005 for failure to pay the full basic national fee 30 months

from the priority date for international application no. PCT/EP03/08542. The basic national fee for a large entity was \$300. The transmittal letter filed 26 January 2005 states, "[f]ees at this time are not to be paid. Applicant will pay upon receipt of Missing Requirements." Additionally, an authorization to charge additional fees to the deposit account was not provided. Accordingly, applicants have failed to pay full basic national fee prior to the expiration of the 30th month deadline.

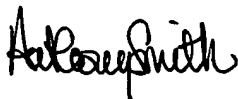
Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459